

REMARKS

Claims 1-9 and 11-20 remain in the application and stand rejected.

Reconsideration of the rejection is respectfully requested in light of the following reasons.

Detailed explanations as to why the present claims are patentable have been discussed in the last office action, mailed by Applicants on July 27, 2006. In the interest of clarity and brevity, this response focuses on the issues raised by the Examiner in the Response to Amendments/Arguments section of the last office action.

Claim 1 recites:

1. A method of performing a software download over a computer network, the method comprising:
 - (a) detecting a setting of a browser;
 - (b) based on the setting of the browser, determining if the browser will alert a user before a software download; and
 - (c) if the browser will not alert the user, not performing the download unless the user specifically authorizes the download.

The elements of claim 1 have been labeled above for clarity of explanation. Element (c) recites not performing “the download” first recited for antecedent basis in element (b) as “a software download.” Element (b) requires determining if the browser will alert a user **before** a software download. That is, element (b) pertains to a setting of the browser where a download will occur without first alerting the user.

As noted in the last office action, Wallent provides two modes that will not alert the user: “Disable” and “Enable.” However, only the enable mode allows for a download. The disable mode does not allow for any download to occur. That is, Wallent’s disable mode is not a setting of the browser where “the browser will alert a user **before a software download**” as required by element (b) of claim 1. No download can occur in Wallent’s disable mode. Therefore, Wallent’s disable mode cannot possibly read on element (c) which is tied to the determination made in element (b).

As noted in the last office action, Wallent's browser will not alert the user in the enable mode. However, in the enable mode, the download will occur without the user specifically authorizing the download, running contrary to element (c).

Wallent's prompt mode will alert the user and thus cannot meet the limitations of elements (b) and (c).

For any type of downloadable, only one of Wallent's modes can be selected and none of those modes can satisfy both elements (b) and (c).

Claim 9 recites:

9. A method of performing a software download over a computer network, the method comprising:
 - (d) detecting a security setting of a browser;
 - (e) based on the security setting, determining if a browser will display a security message before a software download; and
 - (f) if the browser will not display the security message, displaying a non-browser message asking a user to authorize the download.

Claim 9 has been labeled for clarity of explanation. Element (f) recites not performing "the download" first recited for antecedent basis in element (e) as "a software download." Element (e) requires determining if the browser will display a security message **before** a software download. Element (f) recites displaying a non-browser message if the browser will not display the security message, which is determined in element (e).

The last office action suggests that claim 9 reads on the disable setting of Wallent. Applicants respectfully disagree as the disable setting cannot satisfy element (e). It is true that Wallent will not display a security message. However, no download can occur in disable mode either. That is, Wallent's disable mode is not a security setting of the browser where "the browser will display a security message **before a software download**" as required by element (e). Element (f) refers to the determination made in element (e), which the disable mode cannot meet.

The last office action notes that the disable mode “will not display a security message, but will prohibit the software download, and ‘a situation where the download could have proceeded anyway’ would not exist.” This is exactly the reason why the disable mode cannot read on element (e). There is no need for claim 9 if everybody would set their browsers to disable mode. Claim 9 covers the situation where a download will proceed without a security message being displayed, as recited in element (e).

Prompting the user to download when a download cannot proceed anyways is not what the plain language of claim 9 requires. Claim 9 recites prompting the user in situations where the browser security setting will allow the download without asking the user. Elements (e) and (f) cannot be met if the security setting of the browser does not allow a download to occur.

It is also respectfully submitted that claim 9 does not pertain to instructing the browser to prompt the download of software even when download is disabled in the browser. That is, claim 9 does not recite overriding browser settings. On the contrary, claim 9 recites detecting browser settings in element (d) and acting based on the browser settings as recited in elements (e) and (f). There is simply no combination of the references of record that meets all the elements of claim 9 without impermissibly using the present disclosure as a blueprint. To meet claim 9, the combination must (d) detect browser settings (not override), (e) determine if the browser setting will allow a download without displaying a security message, and (f) displaying a non-browser message asking for user authorization if the browser security setting is such that the download will occur without displaying of the security message.

///

///

///

///

///

///

Conclusion

For at least the above reasons, it is believed that claims 1-9 and 11-20 are in condition for allowance.

To expedite prosecution of this case, the Examiner is respectfully requested to call the undersigned at (408)436-2112 if the claims may be amended to resolve claim construction issues and overcome the references of record.

If for any reason an insufficient fee has been paid, the Commissioner is hereby authorized to charge the insufficiency to Deposit Account No. 50-2427.

Respectfully submitted,
Eric McKinlay et al.

Dated: Nov-13, 2006

Patrick D. Benedicto

Patrick D. Benedicto, Reg. No. 40,909
Okamoto & Benedicto LLP
P.O. Box 641330
San Jose, CA 95164
Tel.: (408)436-2110
Fax.: (408)436-2114

CERTIFICATE OF MAILING			
I hereby certify that this correspondence, including the enclosures identified herein, is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below. If the Express Mail Mailing Number is filled in below, then this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service pursuant to 37 CFR 1.10.			
Signature:	<i>Patrick D. Benedicto</i>		
Typed or Printed Name:	Patrick D. Benedicto	Dated:	November 27, 2006
Express Mail Mailing Number (optional):			